

AN ACT

ENTITLED, An Act to revise certain provisions relating to child support.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 25-7-6.2 be amended to read as follows:

25-7-6.2. The child support obligation shall be established in accordance with the combined monthly net income of both parents as provided in the following schedule subject to such revisions or deviations as may be permitted pursuant to §§ 25-7-6.1 to 25-7-6.17, inclusive.

Combined

Net Monthly Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
0-1,000	50	50	50	50	50	50
1,050	74	75	76	77	78	78
1,100	119	121	122	123	125	126
1,150	164	166	168	170	172	173
1,200	209	212	214	216	219	221
1,250	254	257	260	263	266	268
1,300	299	303	306	309	313	316
1,350	322	348	352	356	360	363
1,400	333	394	398	402	407	411
1,450	344	439	444	449	454	458
1,500	355	485	490	495	501	506
1,550	366	530	536	542	548	553
1,600	378	547	582	588	595	601
1,650	389	563	628	635	642	648
1,700	400	579	674	681	689	696
1,750	411	595	701	728	736	743
1,800	422	611	719	774	783	791

1,850	434	627	737	815	830	838
1,900	443	641	754	833	877	886
1,950	452	654	769	849	921	933
2,000	460	666	783	866	938	981
2,050	469	678	798	882	956	1,023
2,100	477	691	813	898	974	1,042
2,150	485	703	828	914	991	1,061
2,200	494	715	842	931	1,009	1,079
2,250	502	728	857	947	1,026	1,098
2,300	510	739	870	962	1,043	1,116
2,350	515	745	878	970	1,051	1,125
2,400	520	752	885	978	1,060	1,134
2,450	524	758	892	986	1,068	1,143
2,500	529	765	899	993	1,077	1,152
2,550	534	771	906	1,001	1,085	1,161
2,600	538	778	913	1,009	1,094	1,171
2,650	543	784	921	1,017	1,103	1,180
2,700	548	791	928	1,025	1,111	1,189
2,750	555	800	938	1,037	1,124	1,203
2,800	562	810	950	1,050	1,138	1,217
2,850	569	820	961	1,062	1,151	1,232
2,900	576	830	973	1,075	1,165	1,247
2,950	583	840	984	1,088	1,179	1,262
3,000	590	850	996	1,100	1,193	1,276
3,050	598	860	1,007	1,113	1,207	1,291
3,100	605	870	1,019	1,126	1,220	1,306
3,150	611	880	1,030	1,138	1,234	1,320
3,200	618	889	1,041	1,150	1,247	1,334
3,250	624	898	1,052	1,163	1,260	1,348

3,300	630	907	1,063	1,175	1,273	1,363
3,350	637	917	1,074	1,187	1,287	1,377
3,400	643	926	1,085	1,199	1,300	1,391
3,450	649	935	1,096	1,211	1,313	1,405
3,500	656	944	1,107	1,223	1,326	1,419
3,550	662	954	1,118	1,236	1,340	1,433
3,600	670	965	1,131	1,249	1,354	1,449
3,650	677	975	1,143	1,263	1,369	1,465
3,700	685	986	1,155	1,276	1,384	1,480
3,750	692	997	1,167	1,290	1,398	1,496
3,800	700	1,007	1,180	1,303	1,413	1,512
3,850	707	1,018	1,192	1,317	1,428	1,527
3,900	715	1,028	1,204	1,330	1,442	1,543
3,950	723	1,039	1,216	1,344	1,457	1,559
4,000	729	1,049	1,227	1,356	1,470	1,573
4,050	736	1,058	1,238	1,369	1,483	1,587
4,100	742	1,067	1,249	1,381	1,497	1,601
4,150	749	1,077	1,261	1,393	1,510	1,616
4,200	755	1,086	1,272	1,405	1,523	1,630
4,250	762	1,096	1,283	1,417	1,536	1,644
4,300	768	1,105	1,294	1,429	1,549	1,658
4,350	775	1,114	1,305	1,442	1,563	1,672
4,400	781	1,124	1,316	1,454	1,576	1,686
4,450	788	1,133	1,327	1,466	1,589	1,700
4,500	794	1,143	1,338	1,478	1,602	1,714
4,550	801	1,152	1,349	1,490	1,615	1,729
4,600	807	1,161	1,359	1,502	1,628	1,742
4,650	812	1,168	1,368	1,512	1,639	1,754
4,700	817	1,176	1,377	1,522	1,650	1,765

4,750	822	1,183	1,386	1,532	1,661	1,777
4,800	826	1,190	1,396	1,542	1,672	1,789
4,850	831	1,198	1,405	1,552	1,683	1,800
4,900	836	1,205	1,414	1,562	1,694	1,812
4,950	841	1,213	1,423	1,572	1,705	1,824
5,000	846	1,220	1,432	1,583	1,716	1,836
5,050	851	1,228	1,441	1,593	1,727	1,847
5,100	856	1,235	1,451	1,603	1,737	1,859
5,150	861	1,243	1,460	1,613	1,748	1,871
5,200	866	1,250	1,469	1,623	1,759	1,883
5,250	871	1,257	1,478	1,633	1,770	1,894
5,300	876	1,265	1,487	1,643	1,781	1,906
5,350	880	1,272	1,496	1,653	1,792	1,918
5,400	885	1,280	1,505	1,663	1,803	1,929
5,450	891	1,288	1,516	1,675	1,816	1,943
5,500	898	1,298	1,527	1,687	1,829	1,957
5,550	904	1,307	1,538	1,699	1,842	1,971
5,600	911	1,316	1,549	1,711	1,855	1,985
5,650	917	1,326	1,560	1,723	1,868	1,999
5,700	923	1,335	1,571	1,735	1,881	2,013
5,750	930	1,344	1,582	1,748	1,894	2,027
5,800	936	1,353	1,592	1,760	1,907	2,041
5,850	943	1,363	1,603	1,772	1,921	2,055
5,900	949	1,372	1,614	1,784	1,934	2,069
5,950	955	1,381	1,625	1,796	1,947	2,083
6,000	962	1,390	1,636	1,808	1,960	2,097
6,050	968	1,400	1,647	1,820	1,973	2,111
6,100	975	1,409	1,658	1,832	1,986	2,125
6,150	981	1,418	1,669	1,844	1,999	2,139

6,200	987	1,427	1,680	1,856	2,012	2,153
6,250	994	1,437	1,691	1,869	2,026	2,167
6,300	1,000	1,446	1,702	1,881	2,039	2,181
6,350	1,007	1,455	1,713	1,893	2,052	2,195
6,400	1,013	1,465	1,724	1,905	2,065	2,209
6,450	1,019	1,474	1,735	1,917	2,078	2,223
6,500	1,026	1,483	1,746	1,929	2,091	2,238
6,550	1,032	1,492	1,757	1,941	2,104	2,252
6,600	1,039	1,502	1,768	1,953	2,117	2,266
6,650	1,045	1,511	1,779	1,965	2,130	2,280
6,700	1,051	1,520	1,790	1,977	2,144	2,294
6,750	1,058	1,529	1,801	1,990	2,157	2,308
6,800	1,064	1,539	1,811	2,002	2,170	2,322
6,850	1,071	1,548	1,822	2,014	2,183	2,336
6,900	1,077	1,557	1,833	2,026	2,196	2,350
6,950	1,083	1,567	1,844	2,038	2,209	2,364
7,000	1,090	1,576	1,855	2,050	2,222	2,378
7,050	1,096	1,585	1,866	2,062	2,235	2,392
7,100	1,102	1,594	1,877	2,074	2,248	2,405
7,150	1,108	1,602	1,886	2,084	2,259	2,417
7,200	1,113	1,610	1,895	2,094	2,270	2,429
7,250	1,118	1,617	1,904	2,104	2,281	2,441
7,300	1,124	1,625	1,914	2,115	2,292	2,453
7,350	1,129	1,633	1,923	2,125	2,303	2,465
7,400	1,135	1,641	1,932	2,135	2,315	2,477
7,450	1,140	1,649	1,942	2,146	2,326	2,489
7,500	1,145	1,657	1,951	2,156	2,337	2,500
7,550	1,151	1,664	1,960	2,166	2,348	2,512
7,600	1,156	1,672	1,970	2,176	2,359	2,524

7,650	1,161	1,680	1,979	2,187	2,370	2,536
7,700	1,167	1,688	1,988	2,197	2,381	2,548
7,750	1,172	1,696	1,997	2,207	2,393	2,560
7,800	1,178	1,704	2,007	2,217	2,404	2,572
7,850	1,183	1,712	2,016	2,228	2,415	2,584
7,900	1,188	1,719	2,025	2,238	2,426	2,596
7,950	1,194	1,727	2,035	2,248	2,437	2,608
8,000	1,199	1,735	2,044	2,258	2,448	2,620
8,050	1,205	1,743	2,053	2,269	2,459	2,632
8,100	1,210	1,751	2,062	2,279	2,471	2,643
8,150	1,215	1,759	2,072	2,289	2,482	2,655
8,200	1,221	1,767	2,081	2,300	2,493	2,667
8,250	1,226	1,774	2,090	2,310	2,504	2,679
8,300	1,231	1,782	2,100	2,320	2,515	2,691
8,350	1,237	1,790	2,109	2,330	2,526	2,703
8,400	1,242	1,798	2,118	2,341	2,537	2,715
8,450	1,248	1,806	2,128	2,351	2,548	2,727
8,500	1,253	1,814	2,137	2,361	2,560	2,739
8,550	1,258	1,821	2,146	2,371	2,571	2,751
8,600	1,264	1,829	2,155	2,382	2,582	2,763
8,650	1,269	1,837	2,165	2,392	2,593	2,775
8,700	1,275	1,845	2,174	2,402	2,604	2,786
8,750	1,280	1,853	2,183	2,413	2,615	2,798
8,800	1,285	1,861	2,193	2,423	2,626	2,810
8,850	1,291	1,869	2,202	2,433	2,638	2,822
8,900	1,296	1,876	2,211	2,443	2,649	2,834
8,950	1,301	1,884	2,221	2,454	2,660	2,846
9,000	1,307	1,892	2,230	2,464	2,671	2,858
9,050	1,312	1,900	2,239	2,474	2,682	2,870

9,100	1,318	1,908	2,248	2,484	2,693	2,882
9,150	1,323	1,916	2,258	2,495	2,704	2,894
9,200	1,328	1,924	2,267	2,505	2,715	2,906
9,250	1,334	1,931	2,276	2,515	2,727	2,918
9,300	1,339	1,939	2,286	2,526	2,738	2,929
9,350	1,345	1,947	2,295	2,536	2,749	2,941
9,400	1,350	1,955	2,304	2,546	2,760	2,953
9,450	1,355	1,963	2,313	2,556	2,771	2,965
9,500	1,361	1,971	2,323	2,567	2,782	2,977
9,550	1,366	1,978	2,332	2,577	2,793	2,989
9,600	1,371	1,986	2,341	2,587	2,805	3,001
9,650	1,377	1,994	2,351	2,597	2,816	3,013
9,700	1,382	2,002	2,360	2,608	2,827	3,025
9,750	1,388	2,010	2,369	2,618	2,838	3,037
9,800	1,393	2,018	2,379	2,628	2,849	3,049
9,850	1,398	2,026	2,388	2,638	2,860	3,060
9,900	1,404	2,033	2,397	2,649	2,871	3,072
9,950	1,409	2,041	2,406	2,659	2,883	3,084
10,000	1,415	2,049	2,416	2,669	2,894	3,096

The child support obligation from the schedule shall be divided proportionately between the parents, based upon their respective net incomes. The share of the custodial parent is presumed to be spent directly for the benefit of the child. The share of the noncustodial parent establishes the amount of the child support order.

Section 2. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as follows:

The court may enter an order allocating the reasonable child care expenses for the child, which are due to employment of either parent, job search of either parent, or the training or education of either parent necessary to obtain a job or enhance earning potential. The court may consider whether

the federal child care tax credit for such minor child is available as a benefit to the custodial parent. If the federal child care tax credit is available to the custodial parent, it shall be calculated at twenty-five percent of the eligible expense.

Section 3. That § 25-7-6.10 be amended to read as follows:

25-7-6.10. Deviation from the schedule in § 25-7-6.2 shall be considered if raised by either party and made only upon the entry of specific findings based upon any of the following factors:

- (1) The income of a subsequent spouse or contribution of a third party to the income or expenses of that parent but only if the application of the schedule works a financial hardship on either parent;
- (2) Any financial condition of either parent which would make application of the schedule inequitable;
- (3) Whether the federal income tax dependent deduction for such minor child is allocated to the benefit of the support obligor or the custodial parent;
- (4) Any special needs of the child;
- (5) The effect of custody and visitation provisions including whether children share substantial amounts of time with each parent;
- (6)
- (7) For agreements entered into prior to July 1, 1986, if it is established by clear and convincing evidence, that debts or property were exchanged for child support and it appears equitable to continue such arrangement;
- (8) The effect of agreements between the parents regarding extra forms of support for the direct benefit of the child;
- (9) The obligation of either parent to provide for subsequent natural children or stepchildren. However, an existing support order may not be modified solely for this reason; or
- (10) The voluntary act of either parent which reduces that parent's income.

Section 4. That § 25-7-6.7 be amended to read as follows:

25-7-6.7. Deductions from monthly gross income shall be allowed as follows:

- (1) Income taxes withheld figured on the basis of two dependent exemptions for a single taxpayer paid monthly rather than actual amount withheld;
- (2) Estimated income taxes payable, prorated monthly;
- (3) FICA taxes withheld from wages or salary;
- (4) Retirement fund amounts withheld or paid directly to an IRS qualified retirement plan, in a reasonable amount, but, in all cases, limited to the amounts deductible for federal income tax purposes;
- (5) Actual business expenses of an employee, incurred for the benefit of his employer, not reimbursed;
- (6) Payments made on other support and maintenance orders.

Section 5. That § 25-7-6.12 be amended to read as follows:

25-7-6.12. The Governor shall, commencing in the year 2000, establish quadrennially a commission on child support. The commission shall review the provisions of this chapter, shall report its findings to the Governor and the Legislature, and may propose amendment thereof to the Legislature.

Section 6. That § 25-7-6.13 be amended to read as follows:

25-7-6.13. All orders for support entered and in effect prior to July 1, 1997 may be modified in accordance with this chapter without requiring a showing of a change in circumstances from the entry of the order.

Section 7. That § 25-7-6.14 be amended to read as follows:

25-7-6.14. Unless the parties otherwise agree and the agreement is approved by the court, the court may, if deemed appropriate under the circumstances, order an abatement of not less than thirty-eight percent nor more than sixty-six percent of the child support if:

- (1) A child spends ten or more days in a month with the obligor;
- (2) The number of days of visitation and the abatement percentage or amount are specified in the court order; and
- (3) The visitation is actually exercised.

The court shall allow the abatement to the obligor in the month in which the visitation is exercised, unless otherwise ordered.

Section 8. That § 25-7-6.15 be amended to read as follows:

25-7-6.15. If travel costs are substantial due to the distance between the parents, the court may order the allocation of such costs, taking into consideration the circumstances of the respective parties as well as which parent moved and the reason that the move was made.

Section 9. That § 25-7-6.16 be amended to read as follows:

25-7-6.16. The court may enter an order for health and dental insurance coverage. Medical insurance shall be provided for the benefit of the minor child whenever practical. The cost of the insurance attributable to the child shall be determined by dividing the out-of-pocket cost of the insurance to the parent by the number of individuals insured thereunder. However, if information is provided at the time of hearing regarding the actual additional costs for the child's share of the insurance, that figure shall be used. The cost so computed shall be apportioned between the parents on the basis of income or income imputed as provided in §§ 25-7-6.1 to 25-7-6.17, inclusive. If one parent pays the entire amount, that parent shall either be reimbursed by the other parent for that parent's portion of the payment or shall receive a credit against his or her support obligation, whichever is appropriate. Any additional, reasonable medical costs, including optometric, dental or orthodontic, counseling or other health care costs for each minor child which exceed two hundred fifty dollars in any year and are not covered by insurance, shall be apportioned between the parents in proportion to the support obligation of each parent.

Section 10. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as

follows:

Notwithstanding the provisions of § 25-7A-17 or § 25-7-7.3, if, by agreement of the parties, the obligor had primary physical custody of the child for more than four consecutive months, the court may credit the obligor for child support arrearages which accumulated during the period the obligor had actual physical custody of the child.

An Act to revise certain provisions relating to child support.

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I certify that the attached Act
originated in the

SENATE as Bill No. 245

Secretary of the Senate
=====

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 245

File No. _____

Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor
=====

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State